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Los Angeles Region

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Mr. Rich Garlinghouse
The Presidio Group, LLC
595 Market Street, Suite 2400
San Francisco, California 94105

CONDITIONAL CERTIFICATION FOR PROPOSED DEERLAKE RANCH RESIDENTIAL DEVELOPMENT PROJECT (Corps' Project No. 2002-00100-AOA), UNNAMED TRIBUTARIES TO DEVIL CREEK, UNINCORPORATED AREA NEAR CHATSWORTH, LOS ANGELES COUNTY (File No. 03-153)

Dear Mr. Garlinghouse:

Regional Board staff has reviewed your request on behalf of the Presidio Group, LLC (the Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on January 6, 2004.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this certification in accordance with the California Water Code. This certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this certification action, please contact Ms. Parvaneh Khayat, Section 401 Program, at (213) 576-5733.

[Original signed by]
Dennis A. Dickerson
Executive Officer

[March 3, 2004]
Date

California Environmental Protection Agency



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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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ATTACHMENT A

Project Information File No. 03-153

1. Applicant: Mr. Rich Garlinghouse
The Presidio Group, LLC
595 Market Street, Suite 2400
San Francisco, California 94105

Phone: (415) 356-7725 Fax: (415) 537-0090
2. Applicant's Agent: Ms. Thienan Ly
29 Orchard
Lake Forest, California 92630

Phone: (949) 837-0404 Fax: (949) 837-5834
3. Project Name: Deerlake Ranch Residential Development
4. Project Location: Unincorporated – Near Chatsworth, Los Angeles County

Longitude: 118° 36' 22"; Latitude: 34° 17' 6"
Longitude: 118° 35' 33"; Latitude: 34° 16' 40"

Township 2N Range 16W Sections 6&7
5. Type of Project: Residential Development
6. Project Description: *Purpose:*

The purpose of the project is to construct a residential development consistent with the policies of the County General Plan and the zoning designations that govern the site. The Project will help attenuate the housing demand in Los Angeles County

Description:

The project site consists of approximately 230.58 acres and contains one blue-line drainage, Devil Canyon. The proposed project consists of the construction of 388 single-family residential lots and is consistent with the policies of the County General Plan and the zoning designations that govern the site.

The lots will be a minimum of 6,000 square feet and will be mostly on a single loaded streets. Access to the site will be from Topanga Canyon Boulevard and Conoga Avenue. Two bridges will span

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Devil Canyon near the center and southeastern portion of the site. A proposed trail system will loop the site, connecting existing trails at the terminus of Conoga Avenue westerly of Topanga Canyon Boulevard with existing trails to the east, north, and west of the site. The project will be graded and will balance onsite with approximately 2.24 million cubic yards of cut and fill. Impacts to waters of the U.S. from project activities described above total approximately 18,860 square feet (0.43 acre) of ephemeral waters, none of which support wetlands.

The project will maintain a similar drainage pattern as the current existing drainage pattern. This means that the total area draining into Devil Canyon and Brown Canyon will be the same in pre- and post-developed conditions.

The proposed project will preserve 4.27 acres of waters of the U.S. onsite as open space as well as preservation of a 160-acre parcel located one mile north of the project site.

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| 7. Federal Agency/Permit: | U.S. Army Corps of Engineers
NWP No. 39 (Permit No. 2002-00100-AOA) |
| 8. Other Required Regulatory Approvals: | California Department of Fish and Game
Streambed Alteration Agreement |
| 9. California Environmental Quality Act (CEQA) Compliance: | The Los Angeles County Department of Regional Planning approved the project's Draft Environmental Impact Report (EIR No. 99-239(5), SCH No. 200061049) on November 2001. |
| 10. Receiving Water: | Unnamed tributary to Devil Creek, a tributary to Browns Canyon Wash and Creek (Hydrologic Unit No. 405.21) |
| 11. Designated Beneficial Uses: | MUN, GWR, REC-1, REC-2, WARM, WILD |
| 12. Impacted Waters of the United States: | Non-wetland waters (vegetated streambed): 0.97 permanent acres
Non-wetland waters (unvegetated streambed): 0.40 permanent acres |
| 13. Dredge Volume: | 0 cubic yards |

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14. Related Projects Implemented/to be Implemented by the Applicant: The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.
15. Avoidance/Minimization Activities: The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:
- Installation of Continuous Deflection Units (CDS) to filter storm water runoff prior to discharging into the ocean storm drain system;
 - Stenciling catch basins and storm drain inlets with prohibitive language (such as “No Dumping – Drains to Ocean”)
 - Provide trash cans and recycling receptacles along pedestrian walkways;
 - Scheduling grading for the dry season, if possible;
 - Storing all construction materials and stockpiles in a manner that provides protection from rainfall and wind.
 - Designating areas for routine equipment maintenance, parking, and refueling located away from storm drain inlets; and
 - Storing stockpiled materials and wastes under a roof or plastic sheeting.
16. Proposed Compensatory Mitigation: The Applicant has proposed to conduct a salvage, propagation and transplantation program for Plummer’s Mariposa Lily that currently occurs on the project site. All of the propagated bulbs and seeds from the project site will be replanted on the 160-acre preserved mitigation parcel. The Applicant will provide a copy of the Plummer’s Mariposa Lily Mitigation Plan to Regional Board staff for review and final approval.
17. Required Compensatory Mitigation: *See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.*

ATTACHMENT B

Conditions of Certification File No. 03-153

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the state.**
2. The Applicant and all contractors employed by the Applicant shall have copies of this certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times so they are familiar with all conditions set forth.
3. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.

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4. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the state.
5. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
6. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.
7. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
8. Application of pesticides must be done by a certified applicator and compounds used must be appropriate to the target species and habitat. All pesticides directed to species that are located in water must be permitted through the Regional Board. As per State Water Resources Control Board Water Quality Order no. 2001-12-DWQ, a Notice of Intent for a National Pollutant Discharge Elimination System (NPDES) is the appropriate permit for water based pesticide application.
9. The Applicant shall not conduct any construction activities within waters of the state during a rainfall event. The Applicant shall maintain **a five-day (5-day) clear weather forecast** before conducting any operations within waters of the state.
10. The Applicant shall utilize the services of a qualified biologist with expertise in riparian assessments during all construction activities where clearing involves areas to be partially cleared (i.e. some vegetation is to remain in the same reach or in an adjacent reach). The biologist shall be available on site during construction activities to ensure that all protected areas are marked properly and ensure that no vegetation outside the specified areas is removed. The biologist shall have the authority to stop the work, as necessary, if instructions are not followed. The biologist shall be available upon request from this Regional Board for consultation within 24 hours of request of consultation.

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11. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
12. All construction activities not included in this certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional certification action.
13. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a **daily** basis during the first week of diversion activities, and then on a **weekly** basis, thereafter, until the in-stream work is complete. Results of the analyses shall be submitted to this Regional Board by the **15th** day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.
14. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed permanent impacts to **0.97 acres** of vegetation within waters of the United States/Federal jurisdictional wetlands and **0.40 acres** within waters of the United States/Federal jurisdictional wetlands by creating or restoring riparian habitat/Federal jurisdictional wetland habitat at a minimum 2:1 area replacement ratio (1.94 acres) for impacts to the vegetated streambed and 1:1 replacement ratio (0.40 acres) for impacts to the unvegetated streambed. As an alternative, the Applicant may provide adequate funding to a third party organization for the creation or restoration of a total of 2.34 acres of riparian habitat within

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waters of the United States/Federal jurisdictional wetlands. The mitigation site shall be located within the Browns Canyon Wash and Creek Watershed to the extent feasible unless otherwise approved by this Regional Board. The boundary of the mitigation site shall be clearly identified on a map of suitable quality and shall be defined by latitude and longitude. This information shall be submitted to this Regional Board for approval prior to any disturbance within waters of the United States and shall include copies of any agreements made between the Applicant and a third party organization regarding compensatory mitigation efforts.

15. All open space and mitigation areas shall be placed within a conservation easement to ensure preservation in perpetuity. Documentation of proper easement placement shall be submitted to the Regional Board within one year.
16. The Applicant shall submit Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project area. Additionally, the Applicant shall submit a site description, including dimensions of project and mitigation areas, and pre and post- project photographs.
17. The project proponent shall submit an **Annual Report** by **January 1st each year**. The report shall describe in detail all of the construction activities actually performed. This report shall include as a minimum, the following documentation:
 - (a) Color aerial and representative cross-section photo documentation of the pre- and post-project conditions organized in an easy to interpret format;
 - (b) The overall status of project including a detailed schedule of work;
 - (c) Copies of all permits revised as required in Additional Condition 1; and
 - (d) A certified statement from the permittee or his/her representative that all conditions of this certification have been met.
18. The Applicant shall submit to this Regional Board **Annual Mitigation Monitoring Reports** by **January 1st** of each year documenting all restoration and mitigation efforts, including, percent survival by plant species and percent cover. The reports shall include discussion of any monitoring activities and exotic plant control efforts. Representative pre and post photographs from designated stations shall be included in the reports. The reports shall be submitted by **January 1st** of each year for a minimum period of **five (5) years** after planting or until mitigation success has been achieved.
19. All applications, reports, or information submitted to the Regional Board shall be signed:

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File No. 03-153

- "I declare under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who managed they system or those directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(Signature)
(Title)''

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24. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.
25. The project shall comply with the local regulations associated with the Regional Board's **Municipal Stormwater Permit** issued to Los Angeles County and co-permittees under NPDES No. CAS004001 and Waste Discharge Requirements Order No. 01-182. This includes the Standard Urban Storm Water Mitigation Plan (SUSMP) and all related implementing local ordinances and regulations for the control of stormwater pollution from new development and redevelopment. The project shall also comply with all requirements of the National Pollutant Discharge Elimination System (NPDES) **General Permit** for Storm Water Discharges Associated with Construction Activity, Order No. 99-08-DWQ. All stormwater treatment systems shall be located outside of any water of the State and shall not be used as a wetland or riparian mitigation credit.
26. The Applicant or their agents shall report any noncompliance. Any such information shall be provided verbally to the Executive Officer within 24 hours from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
27. *Enforcement:*
 - (a) In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.
 - (b) In response to a suspected violation of any condition of this certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

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- (c) In response to any violation of the conditions of this certification, the SWRCB or RWQCB may add to or modify the conditions of this certification as appropriate to ensure compliance.
28. This certification shall expire **five (5) years** from the date of signature. The Applicant may request a renewal of this certification 180 days prior to its termination if the project as described has not been completed.